

Appl. No. 10/065,462
Docket No. 124611/USLM-0052

REMARKS / ARGUMENTS

Applicant appreciates the Examiner's reconsideration of the restriction requirement, resulting in the examination of Claims 1-22.

Status of Claims

Claims 1-36 are pending in the application. Claims 23-36 are withdrawn from consideration as being drawn to non-elected claims. Claims 1-22 stand rejected. However, Claims 6, 7, 15 and 16 have been identified as being objected to, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant appreciates the Examiner's notation of the allowable claims. Applicant has canceled Claims 5, 6, 14, 15 and 23-26, and has amended Claims 1, 10, 19 and 20, leaving Claims 1-4, 7-13 and 16-22 for consideration upon entry of the present Amendment.

Applicant respectfully submits that the rejections under 35 U.S.C. §102(b) and 35 U.S.C. §103(a) have been traversed, that no new matter has been entered, and that the application is in condition for allowance.

Rejections Under 35 U.S.C. §102(b)

Claims 1-4, 9-13 and 18 stand rejected under 35 U.S.C. §102(b) as being anticipated by Kaufman et al. (U.S. Publication No. 2003/0016852, hereinafter Kaufman).

Applicant traverses this rejection for the following reasons.

The Examiner comments that Claims 6, 7, 15 and 16 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Paper 051006, page 7.

Applicant has canceled Claims 5 and 6, and has incorporated the limitations thereof into independent Claim 1.

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Applicant has canceled Claims 14 and 15, and has incorporated the limitations thereof into independent Claim 10.

Dependent claims inherit all of the limitations of the respective parent claim.

In view of Kaufman not being used against Claims 5, 6, 14 and 15 for purposes of anticipation, Applicant respectfully submits that the Examiner's rejection under 35 U.S.C. §102(b) has been traversed, and requests that the Examiner reconsider and withdraw of this rejection.

Rejections Under 35 U.S.C. §103(a)

Claims 5, 8, 13, 17 and 19-22 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Kaufman et al. in view of Boyd et al. (U.S. Patent No. 7,020,511 hereinafter Boyd) and in further view of Lutz (U.S. Patent No. 5,832,051 hereinafter Lutz).

Applicant traverses these rejections for the following reasons.

The Examiner comments that Claims 6, 7, 15 and 16 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Paper 051006, page 7.

Applicant has canceled Claims 5 and 6, and has incorporated the limitations thereof into independent Claim 1.

Applicant has canceled Claims 14 and 15, and has incorporated the limitations thereof into independent Claim 10.

Applicant has incorporated limitations from Claims 5 and 6 into independent Claims 19 and 20.

Dependent claims inherit all of the limitations of the respective parent claim.

In view of Kaufman, Boyd and Lutz not being used against Claims 6 and 15 for purposes of obviousness, Applicant respectfully submits that the Examiner's rejection under 35 U.S.C. §103(a) has been traversed, and requests that the Examiner reconsider and withdraw of this rejection.

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Additionally, Applicant has provided herewith a statement concerning common ownership, at the time this invention was made, of the instant above-identified Application and U.S. Patent to Boyd, thereby disqualifying Boyd from being used in a rejection under 35 U.S.C. §103(a) against the claims of the instant above-identified application.

In view of Boyd being used to establish a teaching of averaging using a median method, Applicant submits that Claims 1, 10, 19 and 20, now including language from Claims 5 and 14, are not obvious in view of Boyd being disqualified as a reference, and in view of the remaining references being deficient in such a teaching.

In light of the forgoing, Applicant respectfully submits that the Examiner's rejections under 35 U.S.C. §102(b) and 35 U.S.C. §103(a) have been traversed, and respectfully requests that the Examiner reconsider and withdraw these rejections.

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The Commissioner is hereby authorized to charge any additional fees that may be required for this amendment, or credit any overpayment, to Deposit Account No. 07-0845. In the event that an extension of time is required, or may be required in addition to that requested in a petition for extension of time, the Commissioner is requested to grant a petition for that extension of time that is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to the above-identified Deposit Account.

Respectfully submitted,

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